

MARY ANN SMITH
Deputy Commissioner
SEAN ROONEY
Assistant Chief Counsel
BLAINE A. NOBLETT (State Bar No. 235612)
Senior Counsel
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344
Telephone: (213) 576-1396
Facsimile: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

| | | |
|------------------------------|---|---------------------------------|
| In the Matter of: |) | ESCROW LICENSE NO.: 963-0348 |
| |) | |
| THE COMMISSIONER OF BUSINESS |) | ORDER TO DISCONTINUE ESCROW |
| OVERSIGHT, |) | ACTIVITIES UNDER FINANCIAL CODE |
| |) | SECTION 17415 |
| Complainant, |) | |
| |) | |
| v. |) | |
| |) | |
| |) | |
| HACIENDA ESCROW CORPORATION, |) | |
| |) | |
| Respondent. |) | |
| |) | |
| |) | |

TO: HACIENDA ESCROW CORPORATION
1131 West 6th Street, Suite 270
Ontario, California 91762

The Commissioner of Business Oversight (Commissioner) Finds That:

A. Hacienda Escrow Corporation (Hacienda) is an independent escrow agent licensed by the Commissioner under the California Escrow Law (Escrow Law) (Fin. Code, § 17000 et seq.), since at least March 17, 1969.

B. Ronald Bryan Forno (Forno) is Hacienda's owner, president, and escrow manager.

1 C. The Commissioner commenced a regulatory examination of Hacienda's business on or
2 about August 2, 2017. The regulatory examination disclosed a number of material deficiencies,
3 including the following:

4 1. The Commissioner's examiner identified approximately 23 fraudulent checks
5 (fraudulent checks) drawn on the trust account in violation of Financial Code section 17414,
6 subdivision (a)(1). None of the fraudulent checks were associated with Hacienda escrow files.
7 Moreover, the fraudulent checks were printed on check stock that differed from the check stock used
8 by Hacienda and the company's name appeared as "Hacienda Endrow [sic] Corp." When the
9 examiner asked Forno about the fraudulent checks, Forno told the examiner that he had reported the
10 issue to the bank, the FBI, and the Ontario Police Department, but "nobody cared." Forno said that
11 the bank had advised him to maintain a "positive pay" feature on the trust account. Using the positive
12 pay feature, Forno was able to reverse payment on the fraudulent checks even though the checks had
13 already cleared Hacienda's trust account. The examiner requested Forno provide her with a copy of
14 the police report, Forno's reports to the FBI or other law enforcement agencies, and any
15 correspondence between Hacienda and the bank related to the fraudulent trust check issue. But Forno
16 failed to provide the requested documents during the examination.

17 2. Financial Code section 17404 and title 10 of the California Code of
18 Regulations (CCR) section 1732.2 require licensees maintain up-to-date books and records. But
19 Hacienda's trust account books were not up to date when the Commissioner began the examination in
20 August of 2017 and Forno failed to provide the examiner with the necessary books and records to
21 complete her examination of the business in violation of Financial Code section 17405, subdivision
22 (b), as follows:

23 a. On or about August 2, 2017, the Commissioner's examiner met with
24 Forno and requested all cut-off trust accounting information including the daily trust account printout
25 and escrow trial balance. The examiner also instructed Forno to order cut-off statements from the
26 bank. Forno produced Hacienda's most current reconciliation, but the reconciliation was for the
27 month of April 2017. Forno had not prepared the May and June 2017 trust account reconciliations.
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1 b. The examiner returned to Hacienda's licensed location on or about
2 August 30. While Forno or his staff had prepared the bank reconciliations through July 2017, the
3 examiner identified 38 reconciliation or adjustment items between Hacienda's book records and its
4 bank records (the July report). A second list showed 60 reconciliation items (this list included the
5 fraudulent cleared checks that were later reversed using the positive pay feature). Only 12 of the
6 adjustment items were identified by the escrow file number (the escrow file number is necessary to
7 assist the examiner in identifying the source of the adjustment).

8 c. The examiner spoke with Forno on August 30 and requested he identify
9 each adjustment item listed in the July report by escrow file number. The examiner also requested an
10 escrow ledger for every adjustment item. Forno agreed to provide the examiner with the items she
11 requested.

12 d. The examiner returned to Hacienda on September 28, but Forno did not
13 provide the escrow file numbers and ledgers for each adjustment item the examiner had requested on
14 August 30, in violation of Financial Code section 17405, subdivision (b).

15 e. The examiner continued the examination at Hacienda's licensed
16 location from October 16 to October 19. During that time, Forno provided escrow file numbers and
17 some documentation for only ten of the adjustment items identified in the July 30 report.

18 f. On November 9, the examiner requested Hacienda produce a copy of
19 the escrow ledger for each adjustment item identified by the company in the July 30 report; a copy of
20 the bank statement with the deposit or disbursement highlighted; a copy of the related escrow receipt
21 or cancelled check (as applicable); a copy of the related wire confirmations; and a detailed
22 explanation of each adjustment item. In addition, the examiner requested Hacienda provide, for each
23 adjustment item corrected; a copy of the bank statement highlighting the correcting item; a copy of
24 the bank debit or credit memo; and a detailed explanation of the correcting item. Finally, the
25 examiner requested copies of the September 2017 and October 2017 bank reconciliations. The
26 examiner demanded Hacienda provide its response to the request by November 15.
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g. On November 14, the examiner contacted Forno by telephone to confirm he had prepared Hacienda's response to the Commissioner's November 9 request. Forno told the examiner that the items she had requested would be ready the following morning, November 15.

h. The examiner arrived at the licensed location on November 15, but Forno did not provide the items the examiner had requested on November 9, in violation of Financial Code section 17405, subdivision (b).

i. That same day, November 15, the examiner issued a written demand to Forno, on behalf of Hacienda, seeking the records and items identified above at paragraph 1.f. Hacienda had until November 29 to respond to the demand. But Hacienda failed to respond to the demand on November 29 in violation of Financial Code section 17405, subdivision (b).

j. The examiner contacted Forno by telephone on November 30 to discuss Hacienda's response to the November 15 written demand. Forno told the examiner that he was still "working on it" and that it would take time to respond because the Commissioner's demand had identified over 30 adjustment items. But Forno failed to provide the examiner with the items she had requested in the written demand, in violation of Financial Code section 17405, subdivision (b).

3. During the course the examination, it came to the Commissioner's attention that eight Hacienda employees working at the licensed location had not previously been reported to the Department. Under the Escrow Law, prior to allowing any employee access to moneys or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust funds of the escrow agent, the escrow agent must inform the Department of that individual's identity in writing. (10 CCR 1726.) But the examiner could find no written record in the Department's files for the eight Hacienda employees and the unreported employees appeared to have access to trust funds.

D. On or about July 13, 2018, the Commissioner made another written demand on Hacienda to provide proof of its books and records for the months of July 2016 through May 2018, along with a detailed explanation of all adjusting items and supporting documentation for each adjusting item Hacienda identified in its escrow reports. The Commissioner demanded Hacienda provide its response by July 23. The Commissioner also demanded Forno, on behalf of Hacienda,

1 provide the Department with proof that it had attempted to contact law enforcement concerning the
2 fraudulent check issue and that it had reported the issue to its bank. But Hacienda failed to respond to
3 the demand in violation of Financial Code section 17405, subdivision (b).

4 E. On July 23, the examiner returned to Hacienda's licensed location. Forno had prepared
5 35 escrow files for the examiner. The examiner reviewed the files. She determined that the files were
6 opened after the examination start date and were not related to the adjustment items previously
7 identified on the July 30 report. Forno, on behalf of Hacienda, did not provide the items requested in
8 the demand.

9 F. The examiner returned to the licensed location on July 30. An accounting consultant
10 retained by Hacienda provided the examiner with a portion of the supporting documents she had
11 requested for the outstanding adjustment items identified in the July 30 report. The examiner also
12 obtained copies of Hacienda's trust bank statements for the period January to April 2018. The bank
13 statements showed fraudulent checks continued to be drawn on Hacienda's trust account, and the
14 company had done nothing to correct the issue.

15 G. On October 18, the examiner returned to Hacienda's offices to complete the August
16 2017 regulatory examination. Hacienda's accounting consultant told the examiner that he had made
17 significant progress in cleaning up the old reconciling items in August and that the task was
18 substantially completed in September. But the examiner identified five large disbursements from the
19 trust account that had not been identified by escrow file number. The examiner requested the
20 accounting consultant provide her with supporting documentation for the disbursements by the end of
21 the day. Hacienda's consultant told the examiner that he would provide the requested materials to her
22 the next day, October 19. But Hacienda failed to provide the requested supporting documents on
23 October 19. The examiner also observed, when reviewing Hacienda's August 2018 bank statement,
24 that an additional 15 fraudulent checks had cleared Hacienda's trust account during the month of
25 August 2018 but were later reversed using the positive pay feature. It did not appear Hacienda had
26 taken any action to correct the fraudulent check issue, which the examiner first identified in August
27 2017.

28 H. To date, Hacienda has failed and continues to fail to provide the Commissioner with

1 the books and records demanded during the regulatory examination in violation of Financial Code
2 section 17405, subdivision (b); Hacienda has allowed and continues to allow fraudulent checks to be
3 drawn on its trust account in violation of Financial Code section 17414, subdivision (a)(1); and, in
4 violation of 10 CCR 1726, Hacienda failed and continues to fail to report to the Department at least
5 eight employees who have access to trust funds placing the licensee's escrow customers at risk.

6 Hacienda is conducting its escrow business in such an unsafe or injurious manner as to render
7 further operations hazardous to the public or to customers.

8 NOW, BASED UPON THE FOREGING, AND GOOD CAUSE APPEARING
9 THEREFORE, it is hereby ORDERED, under the provisions of Financial Code section 17415, that
10 Hacienda immediately discontinue acceptance of any new escrow or joint control business, and of
11 any money, documents or other property in connection therewith.

12 This order is to remain in full force and effect until further order of the Commissioner.

13 Financial Code section 17415 provides:

14 (a) If the commissioner, as a result of any examination or from any
15 report made to him or her, shall find that any person subject to this
16 division is in an insolvent condition, is conducting escrow business in
17 such an unsafe or injurious manner as to render further operations
18 hazardous to the public or to customers, has failed to comply with the
19 provisions of Section 17212.1 or 17414.1, has permitted its tangible net
20 worth to be lower than the minimum required by law, has failed to
21 maintain its liquid assets in excess of current liabilities as set forth in
22 Section 17210, or has failed to comply with the bonding requirements
23 of Chapter 2 (commencing with Section 17200) of this division, the
24 commissioner may, by an order addressed to and served by registered
25 or certified mail or by personal service on such person and on any other
26 person having in his or her possession or control any escrowed funds,
27 trust funds or other property deposited in escrow with said person,
28 direct discontinuance of the disbursement of trust funds by the parties
or any of them, the receipt of trust funds, the delivery or recording of
documents received in escrow, or other business operations. No person
having in his or her possession any of these funds or documents shall
be liable for failure to comply with the order unless he or she has
received written notice of the order. Subject to subdivision (b), the
order shall remain in effect until set aside by the commissioner in
whole or in part, the person is the subject of an order for relief in
bankruptcy, or pursuant to Chapter 6 (commencing with Section

1 17621) of this division the commissioner has assumed possession of the
2 escrow agent.

3 (b) Within 15 days from the date of an order pursuant to subdivision
4 (a), the person may request a hearing under the Administrative
5 Procedure Act, Chapter 5 (commencing with Section 11500) of
6 Division 3 of Title 2 of the Government Code. Upon receipt of a
7 request, the matter shall be set for hearing to commence within 30 days
8 after such receipt unless the person subject to this division consents to a
9 later date. If no hearing is requested within 15 days after the mailing or
10 service of such notice and none is ordered by the commissioner, the
11 failure to request a hearing shall constitute a waiver of the right to a
12 hearing. Neither the request for a hearing nor the hearing itself shall
13 stay the order issued by the commissioner under subdivision (a).

14 DATED: November 7, 2018

15 Los Angeles, California

JAN LYNN OWEN

Commissioner of Business Oversight

16 By _____

MARY ANN SMITH

Deputy Commissioner

Enforcement Division